

- **License term and renewal expectancies:** Ten year license terms, renewal expectancies, and cellular renewal procedures should apply to all CMRS licensees. (18-19)
- **Transfers of control and assignments:** Transfer restrictions should be removed for licenses obtained through competitive bidding, and the FCC should adopt streamlined procedures that eliminate the need for approval of purely intracorporate changes, deem *pro forma* transfers granted effective upon filing, and permit partitioning of licenses through subdivision of spectrum of license area. (13-14)

Other: 900 MHz Phase II licensing should proceed expeditiously. (20-21)

BROWN AND SCHWANIGER

Interest: Attorneys with CMRS and PMRS clients.

Substantial similarity between services: Among the factors to be examined are whether the services under consideration both enjoy exclusive use of a channel. (6-7)

Creating comparable regulatory requirements:

- To ensure comparability between all CMRS providers, the Commission must withdraw its outstanding proposal in the refarming proceeding to reduce the bandwidth to be assigned to certain CMRS operators. (2)
- If wide-area SMRs are deemed competitors with cellular, a technical determination must be made that the channel bandwidth authorized to any ESMR be comparable to that assigned to competing cellular operators. In this respect, the commenter suggests modifying the licenses of all ESMR systems by August 10, 1996, to allow them to use bandwidths of 30 kHz rather than the current 20 kHz limit. (2-3)
- To provide for comparability in the regulation of all CMRS operators, the Commission must revise its technical rules and licensing procedures to give operators the same flexibility to obtain authorization for use of all standard modes of emission on any frequency and to operate in a trunked or conventional mode. (3-4)
- The enactment of revised Section 332 requires the Commission to accelerate the availability of exclusive use authorizations for all CMRS licensees on an equal basis. (4-6)
- The commenters suggest that the Commission grant an exclusive license to any licensee operating a CMRS system on any frequency as of August 10, 1996. Other licensees sharing a channel with a CMRS operator would be "grandfathered" indefinitely, but would not be permitted to modify their facilities or to assign their license to anyone but the CMRS licensee with exclusive use of the channel or to an entity that acquired the interest of the non-exclusive licensee. (6)

Spectrum aggregation caps:

- Supports a spectrum cap, but recommends that it be set at different levels depending on the nature of the service provided by the licensee. (16)

- Urges the Commission to impose a cap on the number of channels that can be held by ESMR operators so as to prevent the waste of spectrum and anti-competitive abuses in the development of ESMR systems. (17)
- Argues that the Commission should limit the number of channels any ESMR may hold to the number that will permit the simultaneous operation of three ESMR systems in the market, together with all currently authorized traditional SMR-trunked systems, increased by 20 percent. (17-18)

Technical rule change proposals:

- **Antenna height and power limits:** Supports authorizing non-nationwide paging licensees in the 929-930 MHz band to use transmitter powers of up to 3500 watts in their own service areas. (9-10)
- **Interoperability:** If the Commission determines that ESMRs will act as a competitor to cellular, it should immediately require that, by August 10, 1996, all ESMR equipment be fully interoperable not only with other ESMRS, but with all cellular systems as well. (11-13)

Operational rule change proposals:

- **Loading requirements:** Supports elimination of the Commission's Part 90 loading standards, and argues that, if the FCC wishes to apply regulatory parity to substantially similar systems, it should apply the same channel occupancy standards to 800 and 900 MHz band systems regulated under Part 90 as it applies to systems regulated under Part 22. (13-14)
- **Station identification:** Suggests generally that where transmission of a call sign is not required for the FCC to identify a monitored station, the transmission of station identification is unnecessary and should not be required. (15)

Licensing rules and procedures:

- **Comments on new application form:**
 - Argues that the replacement for Forms 401 and 574, if any, should follow the private radio model, with the Commission's computer programs being revised to facilitate automated production of a public notice from a common carrier application receipts. (21)

- Argues that Schedule E (which concerns modifications, deletions, and additions) is unclear, and suggests that the Commission devise a format that lets it compare all subsequent filings concerning a particular application to determine whether placement on public notice is required. (22-23)
- Maintains that the public interest requires abandonment of the Form 600, which is wasteful of paper and other resources, and the use instead a variety of application forms tailored to specific categories of licenses. (23-24)
- Suggests in particular that the Commission use a slightly modified, computerized version of Form 574. (25-27)
- As for particular complaints concerning the Form 600, the commenter notes that: (1) the filing fee boxes provide inadequate space; (2) the inclusion of multiple items of data under one item number unnecessarily complicates the preparation and automated processing of the form; (3) confusion and errors will result from having applicants check boxes as to whether they intend to provide CMRS, PMRS or both; (4) Items A12-A17 on Schedule A are duplicative of information requested elsewhere; (5) Item A1 on Schedule A should be replaced with several check boxes rather than one long box; (6) Item B2 of Schedule B requests information not available to the public (FCC tower number); (7) Item B3 of Schedule B requests information sought on Schedule F; (8) requiring NAD 27 and NAD 83 coordinates is a waste of time, and applicants should instead supply geographic coordinates; (9) Items B13-16 and C13-16 are wholly unnecessary; (10) Schedule D should be revised to provide sufficient spaces for multiple responses. (28-35)
- **Application fees:** To the extent that Congress's intent can be discerned, it intended for the Commission to reduce Part 22 fees to correspond to the \$35.00 Part 90 fee. (19-20)
- **Regulatory fees:** The Commission is required to charge SMR's the same \$16.00 fee that is charged for common carrier radio services. (20)

Other:

- Urges the Commission to withdraw the feefarming proposal to reduce the bandwidth to be assigned to CMRS operators regulated by the private radio bureau. (2)
- Urges the Commission to require an adjacent channel licensee to accept in consideration of a grant of consent, compensation for the ESMR licensee of 1/5 of the value of a 25 kHz-wide SMR channel. (3)
- Notes that there is an error in footnote 19 of the FNPRM, which states that "conventional SMR systems operate on one to four channels with no trunking allowed." (7)
- Notes that there is an error in footnote 20 of the FNPRM, which states that "Business systems in [the 800 MHz and 900 MHz] bands are prohibited from selling to customers for profit." (8)
- Urges the Commission to withdraw the Part 22 prohibition against mobile units communicating directly with one another. (15)

**CELLULAR TELECOMMUNICATIONS
INDUSTRY ASSOCIATION**

Interest: Trade association whose members provide various commercial mobile services, primarily including cellular.

Creating comparable regulatory requirements: Rules unnecessarily restricting the ability of cellular carriers to design arrangements responsive to customer needs and demands must be eliminated. (7)

Spectrum aggregation caps:

- In view of the large amount of spectrum available for CMRS use and the competitive market structure for both narrowband and broadband CMRS services, there is no need for a cap on the aggregation of CMRS spectrum. (8)
- Moreover, imposition of a cap would unnecessarily prevent available spectrum from being utilized according to its highest economic use by precluding existing operators from using additional spectrum to add value to their networks and customers. (9)

Technical rule change proposals:

- **Modulation and emission requirements:** Agrees that there is no need to continue emission restrictions in services where frequencies are licensed on an exclusive basis as long as licensees comply with requirements that guard against co-channel interference, etc. (3)

Licensing and procedures:

- **Comments on new application form:** Agrees that applicants should indicate the service category applied for, as well as whether the proposed service meets the statutory definition of CMRS, which will help ensure accuracy and protect against misrepresentation. (4)
- **Application fees/regulatory fees:** Supports the FCC's proposals that all CMRS applicants in Part 90 services should be required to pay the \$230 common carrier application fee, and the same per-subscriber regulatory fee as other CMRS operators. (5)
- **Conditional and special temporary authority/pre-authorization construction:**

-- Agrees with the Commission that the same rules should apply to applicants under Parts 22 and 90,

and urges the Commission to adopt liberal pre-grant construction rules to permit commencement of construction at any time, provided that licensees comply with environmental and aviation hazard rules. (5)

-- Also supports permitting licensees to operate on an expedited basis, via special temporary authority if necessary. (5-6)

- **Permissible uses:** Urges the FCC to eliminate restrictions on the provision of non-common carrier services by common carrier licensees, and to extend equivalent flexibility to all competing mobile service providers. (7)

Other: The Commission's rules should permit persons to challenge the classification requested on an application form if the application indicates that the proposed service would be the functional equivalent of a CMRS service. (4)

CELPAGE INC.

Interest: Licensee of common carrier and private carrier paging systems that operate throughout the continental United States, the Common Wealth of Puerto Rico, and the United States Virgin Islands.

Substantial similarity between services:

- Urges the FCC to continue to treat shared frequency services differently from exclusive frequency services. Thus, shared PCP assignments should not be considered substantially similar to Part 22 paging operations. (7-9)

Creating comparable regulatory requirements:

- Suggests that the Commission adopt and formulate rules that combine the best elements of the private radio and RCC rules, choosing the best practical alternative wherever possible. (6)
- In view of the unique needs of shared frequency operators, the FCC should streamline and consolidate the shared use rules in one place, apart from the rules applicable to exclusive operations. (6-7)

Spectrum aggregation caps:

- Generally argues that the imposition of a spectrum cap is too late and does not reconcile with the Commission's "fondness for auctions." (21-22)
- Rather than punishing "big guys," the Commission should try to ensure that smaller players also have a fair opportunity to obtain usable spectrum, perhaps by levelling the playing field between large and small business in the auction process. (22)

Technical rule change proposals:

- At the outset, Celpage urges the FCC to strive for technical and operational comparability wherever possible throughout all mobile service rules, not just those applicable to "substantially similar" CMRS operations. (9-10)
- Also suggests that, in formulating these rule changes, the Commission should attempt to foster efficient use of scarce spectrum. (15)

- **Channel assignment rules, service area definitions:**
Suggests two proposals for future spectrum allocations or for the allocation of unused spectrum: (1) allow the applicant to select a channel assignment model (i.e., to serve a particular community, county, or mile radius); and/or (2) establish various frequency pools with different channel assignment policies. (10-11)
- **Co-channel interference criteria:** Urges the FCC to safeguard its duty to ensure that licensees are not subjected to harmful interference, but also suggests that, when third parties or licensing decisions cause "injury" to PCP and shared frequency licensees, PCP licensees should be entitled to relief to the fullest extent possible. (12-15)

Operational rule change proposals:

- **Construction periods and coverage requirements:**
 - All CMRS providers should be subject to the same construction requirements. Thus, PCPs should have the 12 month construction period. (15-16)
 - Disagrees with the proposed new definition of "constructed" as meaning "constructed and providing service to at least two unaffiliated third parties," because there is no correlation between the number of active subscribers and the fact that a station has been timely constructed. (16)
 - Moreover, the "two unaffiliated parties" rule is unnecessary to curb warehousing, is impractical, and is unenforceable. (16-17)
 - Suggests that the rules should simply require a station to be fully operational prior to the expiration of the construction period, and rely on something similar to the "finder's preference" program for enforcement. (17-18)
 - Favors extended construction periods but believes that the existing rules are arbitrary and discriminatory. The FCC should devise a standard set of benchmarks that must be met to qualify for extended construction, driven by market size or number of transmitters. (18)
- **Loading requirements, end user eligibility:** Should be eliminated across the board. (19)

- **Permissible uses:** Are essential as applied to shared frequencies. In other circumstances, however, these rules should be revisited or clarified. For example, it is unclear what the Part 90 prohibition against "broadcasting" means for paging operators that disseminate news and financial data to their subscribers via alphanumeric pagers. (19)
- **Station identification:** Agrees with the proposal to allow multiple station systems to do station identification with one call sign, and that licensees should be able to do so with a digital format. (19-20)
- **Equal employment opportunities:** Supports proposed extension to all CMRS operators, and favors 16 employee cut-off. (20)

Licensing rules and procedures:

- **Comments on new application form:** Believes that the new form is excessively complicated because it unnecessarily reiterates various eligibility criteria and continues to require microfiche copies from certain CMRS applicants. (23-24)
- **Application fees/regulatory fees:** Disagrees with the proposal to apply the higher Part 22 application and regulatory fees to all CMRS providers as inconsistent with Congress's mandate to ease regulatory burdens and with the FCC's obligations to license quickly and efficiently. Also maintains that none of these issues were adequately addressed in the Further Notice. (25-26)
- **Public notice and petition to deny procedures:** Conversion to Section 309 procedures should not delay the ability of Part 90 or Part 22 licensees to commence operations if the Commission: (1) dismisses frivolous petitions to deny by enforcing the "standing" requirement; (2) requires allegations of fact to be supported by an affidavit; and (3) permits conditional operation prior to expiration of the protest period. (26-28)
- **Amendment of applications and license modifications:**
 - Agrees with the Commission that modification applications should not be subject to competitive bidding and suggests that major amendments should be treated similarly. (28)
 - Urges the Commission to allow licensees to relocate control stations as a minor or permissible change,

as long as it can be accomplished without causing harmful interference to other stations. (28)

- **License terms and renewal expectancy:** Agrees with the FCC that Part 90 licenses should be conformed to be 10 years long, and with the proposal to adopt a renewal expectancy for incumbent CMRS licensees. (29)
- **Transfers of control and assignments:** Urges the Commission to clarify the terms of its proposed public interest demonstration, and to permit exceptions to the construction requirement when there are unusual showings of need. (29)

Other:

- In view of the dramatic rule changes resulting from this proceeding, Celpage urges the Commission to adopt a fairly generous "amnesty" period following adoption of the CMRS rules, to enable licensees to become familiar with the new rules. (20-21)
- Suggests that, before any of the proceeds from auctions, application fees, or user fees are sent to the Treasury, the FCC should use a portion to obtain a state-of-the-art computer system with document scanning and CD-WORM data retrieval equipment. (24)

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CENTURY CELLUNET, INC.

Interest: Local exchange and cellular carrier.

Spectrum aggregation caps:

- Argues that the public interest will not be served by the proposed cap on the aggregation of CMRS spectrum. (1-2)
- Given the large amount of CMRS spectrum available and the existence of construction and operation requirements in many CMRS services, it would be difficult for one party to hoard spectrum to the detriment of the public and other competitors. (2)
- Recommends that, if a limit on aggregated spectrum is necessary, the FCC should utilize spectrum caps specific to a particular service (as in the PCS context) rather than a broad cap. (3)
- Use of a service specific approach would allow the Commission to address any potential competitive problems that might exist in the context of new CMRS offerings. **
- Use of a service specific approach also will allow the FCC to analyze each situation as it arises, and to make an informed decision as to the nature and extent of restrictions required. (3)
- The cap as proposed will unduly burden existing CMRS licensees and restrict their ability to participate in new CMRS services. (3)
- Restrictions on CMRS licensees -- the companies that are best suited to address the public's wireless needs -- will adversely affect the public interest by delaying the introduction of new CMRS services and preventing the development of technological advancements. (3-4)

COMCAST CORPORATION

Interest: Diversified telecommunications company holding interests in cable television, wireless communications (cellular, PCS, ESMRs), and competitive access providers.

Spectrum aggregation caps:

- Asserts that proposal to adopt 40 MHz spectrum cap for all CMRS providers, regardless of the services they provide or the spectrum they occupy, overlooks significant differences among CMRS providers. (3)
- Argues that applying a uniform spectrum cap will disproportionately affect particular non-cellular CMRS providers, thereby hindering both technological development and the growth of competition. (4)
- Argues that the Commission's "one size fits all" spectrum aggregation cap undermines uniform regulation by subjecting dissimilar services to identical regulation, and suggests that a uniform spectrum cap would create administrative difficulties for service providers that are licensed for service areas that differ from that defined in a general spectrum cap rule. (6) **
- Believes a uniform CMRS spectrum aggregation limit will disrupt the current operations of non-cellular CMRS providers, and force those providers to divest portions of their spectrum holdings. (7)
- Suggests that the Commission does not yet know of opportunities for anti-competitive behavior and that, without a clear picture of such opportunities, the Commission runs the risk of creating market inequities that will hinder the entry of new service providers and prevent the development of competition in the local loop. (8)
- Contends that the CMRS marketplace is likely to include a variety of service providers that may never hold the market power to be able to engage in anti-competitive behavior. (9)
- Suggests that the Commission cannot rationally treat new CMRS entrants and all cellular carriers in the same manner by applying a uniform spectrum cap to all market participants for the simple reason that they are not similarly situated. (10)

- Suggests that it would be prudent to delay consideration of a uniform spectrum cap, at least until the level of competitiveness existing in the CMRS marketplace and any potential for anti-competitive behavior can be definitively adduced. (10)
- Argues further that a uniform spectrum cap does not account for the business realities facing CMRS providers nor does it reflect the true nature of the developing CMRS and broader telecommunications marketplace. (11)
- Proposes that if CMRS entrants and emerging CMRS services providers are to provide competition to the telephone local loop the rules must provide flexibility for CMRS providers to offer a full range of telecommunications services. (11)
- Submits that there is a certain illogic to the Commission's spectrum cap proposal if the Commission seeks to encourage facilities-based local services competition. (12)
- Suggests that the Commission establish strict interlocking directorship rules to reduce the likelihood of anti-competitive behavior and to prevent the undue concentration of spectrum. Such rules would promote diversity without threatening the competitive development of the CMRS marketplace. (12) **

**COMMITTEE FOR EFFECTIVE CELLULAR RULES
("CECR")**

Interest: Ad hoc organization of cellular permittees, licensees, engineering firms, investment bankers, and industry consultants.

Licensing rules and procedures:

- **Mutually exclusive applications:**
 - CECR opposes the Commission's proposal to replace the Phase II unserved area first-come, first-served filing procedures with 30-day filing windows. (2)
 - The proposal will, contrary to Congressional intent, increase mutually exclusive filings, and will result in inefficiencies. (2)
 - The proposal is contradictory to the Commission's initial reasoning in establishing first-come, first-served procedures. (3)
 - CECR is concerned that the proposal is motivated by revenue maximization, which is prohibited by Section 309(j) of the Communications Act. **
 - The use of first-come, first-served filing procedures does not preclude auctions in the event that mutually exclusive applications are filed on the same day. (3)

CONSTELLATION COMMUNICATIONS, INC.

Interest: Applicant to construct a LEO satellite system to provide mobile satellite and radiodetermination satellite service.

Spectrum aggregation caps: Spectrum caps on MSS would be harmful at this time because: (1) the MSS service is generally designed to serve areas that have no alternative means of obtaining mobile telephony, and MSS providers will complement rather than compete with terrestrial CMRS providers; (2) the dynamic nature of spectrum assignment policies contemplated for the 1.6/2.4 GHz bands makes it difficult to design a spectrum cap for MSS; and (3) any limitation on an applicant's access to spectrum outside the context of the FCC's MSS current proceedings would be inappropriate. (2-4)

DIAL PAGE, INC.

Interest: Provider of public land mobile, private carrier paging, SMR, and ESMR services.

Spectrum aggregation caps:

- Dial Page strongly opposes the general spectrum cap proposal which, it contends, is neither necessary nor desirable. (3)
- Also argues that the existing regulations adequately address the FCC's concern regarding the aggregation of large amounts of CMRS spectrum in a given geographic area, citing the PCS rules. (3)
- The allocated SMR spectrum totals only 14 MHz, which falls far short of the 25 MHz allocated to each cellular operator, is neither contiguous nor exclusive, and is subject to site-by-site licensing, all of which give ESMR providers a substantial spectrum disadvantage. (3-4)
- Imposition of a general spectrum cap, combined with the proposed attribution rule, will likely inhibit investment in innovative services by prohibiting the participation of existing operators, who are most likely to fund new services. (4)
- If the FCC imposes a general CMRS spectrum cap, Dial Page urges that the cap not apply to the aggregation of SMR spectrum. ESMR operators must be able to accumulate significant spectrum positions to: (1) provide cost-effective services competitive with cellular and PCS; (2) accommodate high-speed data transfer applications and other ancillary services; and (3) reduce the cost of constructing digital networks. (4-5)
- The Commission also should not include previously private radio spectrum, such as SMR spectrum, in the overall spectrum cap because this spectrum is not "equivalent" to cellular or PCS spectrum in terms of its non-contiguous, non-exclusive nature, and its issuance on a site-by-site basis. (5)
- Dial Page believes that the proposed 5 percent attribution rule is unnecessarily restrictive and will limit investment by entities that hold minority interests in CMRS licensees without providing any articulated benefit. (5-6)

- If the Commission adopts an overall cap, it should clarify that frequencies used solely for paging services are not included in the cap. Paging is not competitive with mobile phone and other services offered by CMRS providers, and thus should not be considered "substantially similar" to cellular, SMR, and PCS for purposes of the spectrum cap. (6)

Technical rule change proposals:

- **Service area definitions:** Endorses block licensing for ESMRs but urges the Commission to defer adoption of a new licensing scheme until the industry develops a licensing blue print. (7)

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ERICSSON CORPORATION

Interest: Equipment manufacturer.

Technical rule change proposals:

• **Interoperability:**

- Asserts that the Commission should not establish mandatory standards intended to achieve interoperability among all classes of CMRS equipment or among the same type or class of CMRS service. (2)
- Believes the marketplace should dictate whether, and, if so, to what extent, interoperability should be implemented. (2)
- Believes the Commission should adopt the same regulatory position for newly reclassified Part 90 carriers as it has for PCS and digital cellular systems, i.e., mandatory interoperability should not be required. (4)

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GEOTEK COMMUNICATIONS INC.

Interest: 900 MHz specialized mobile radio service provider.

Substantial similarity between services:

- The Commission's analysis of the SMR service ignores companies like Geotek that utilize a wide-area, high power multi-channel SMR architecture to deliver dispatch services to business customers. (3)
- Under the Commission's analysis, wide area multi-channel providers, such as Geotek, would be classified as cellular-like providers. This classification is inconsistent with the actual service provided. (4)
- The Commission's analysis also fails to distinguish between the 800 MHz and 900 MHz markets. (4-5).
- The Commission should add two criteria to the substantially similar test: (1) the nature of the service actually provided; and (2) the nature of the customer base. (5-6)

Creating comparable regulatory requirements:

- Due to Congress' August 10, 1994 deadline, the Commission will have little time to evaluate the record from this proceeding before adopting final rules. (7)
- Therefore, the Commission should adopt general rules on service areas and licensing procedures and defer the technical rules to future service specific Report and Orders. (7)

Technical rule change proposals:

- **Channel assignment rules:**
 - The Commission should adopt MTA license service areas comprised of ten channel blocks within each MTA for the 200 channel 900 MHz SMR service. (10)
 - Licensees should be allowed to acquire as many channels as necessary for technical or business purposes. Additional channels could be acquired through competitive bidding or through acquisitions from other incumbents. (10-11)

- **Service area definition:**

- MTA-based service areas are the most suitable geographic service area designation for dispatch services. (10)
- If the Commission adopts a new service area, it should allow 900 MHz SMR carriers to build out their systems to the market boundaries of the MTA or regional license over the term of their license. At the end of the fill in period all areas not covered within a service contour would be deemed "unserved" and open to competing applications subject to competitive bidding. (11)

Licensing Rules and Procedures:

- **Mutually exclusive applications:**

- Geotek supports the Commission's proposal to allow carriers to add internal base stations without filing modification applications if they do not effect the outer service area boundaries at the border. As a result, there would be no mutual exclusivity or competitive bidding. (11-12)
- If the Commission decides to require modification applications, these applications should be deemed as "major" modifications. (12)
- Neither initial applications or modification applications of existing licensees should be subject to competitive bidding where the only reason they have filed the application is because the Commission has changed its rules. (13)
- Applications for modifications should not be subject to competitive bidding because the 900 MHz service would not have the buildup opportunity provided other CMRS services, including cellular and PCS, and therefore, the 900 MHz service would essentially be penalized by the change in its service area contours. (14)

- **Antenna Height and Power Limits:**

- The Commission's antenna height and power limits assume that all wide-area SMRS will employ the cellular model. The Commission should not adopt rules that require low power multiple site "cellular" configurations. (16)

- Geotek urges the Commission to adopt its third proposal in order to allow both wide-area SMR systems and cellular systems to have greater flexibility over station power within the interior portions of their service areas and to limit such power at the licensee's service area border. (16)
- **Modulation and emission requirements:** The handset power emissions should not be changed or if changed should remain compatible with ET Docket No. 93-62. (17)
 - **Interoperability standards:** The third proposal, which maintains the status quo by retaining interoperability requirements for cellular equipment but refraining from any extension of these requirements to other classes of CMRS services should be adopted. (18)
- Operational rule change proposals:**
- **Construction periods and coverage requirements:** Geotek supports the proposal to extend the construction period with coverage benchmarks and license term of SMRs to ten years. (19)
 - **Transfers of control and assignments:** Geotek supports the Commission's proposal. The Commission should also permit an existing carrier that has both constructed and unconstructed licensed facilities to sell to unconstructed systems as a part of a larger transaction. Licensees should be prohibited from selling totally unconstructed systems under any circumstances. (20)

**GLOBAL CELLULAR COMMUNICATIONS, INC. &
JEAN M. WARREN**

Interest: 220 MHz service providers.

Substantial similarity between services:

- 220 MHz services are not substantially similar to other CMRS services. (2)

Other:

- Current channel assignment and service area rules for 220 MHz should not be changed, as suggested by SunCom, because they are sufficiently flexible to allow comparable technical acquisitions and financing between 220 MHz services and competitive CMRS services. (2)
- Contrary to its claims, SunCom can achieve its requisite channel capacity under the current rules through the use of management agreements. Management agreements are in wide use in the 220 MHz industry and do not hinder the efficiency or fundraising ability of SMR companies. (2-4) **
- SunCom's petition may be an attempt to circumvent the financial and regulatory obligations of the current rules governing 220 MHz nationwide licensing. (7)
- SunCom's petition seeking relief from the eight-month construction requirement of Section 90.725(f) should be denied because it is against the public interest in rapid deployment of 220 MHz services. (5-6)
- There is nothing novel about SunCom's proposed network that would support extension of construction deadlines. (4-5)

GTE SERVICE CORPORATION

Interest: Provider of wireless telecommunications services including cellular, satellite, paging, Airfone and Railfone.

Creating comparable regulatory requirements:

- Concurs with the Commission's assessment that regulatory parity does not mean that identical requirements must be imposed on all CMRS offerings. (4)
- Suggests that this stage of the proceeding presents a unique opportunity for the Commission to concentrate on leveling the playing field between PCS operators and all other CMRS providers. (3)
- Specifically, the Commission should: (1) amend its rules to extend PCS-type flexibility to all CMRS operators, including cellular; and (2) eliminate the rules limiting the fixed services that may be offered by cellular carriers. (4-6)
- Urges the FCC to implement licensing policies based on a philosophy of open entry opportunities, and impose minimal limitations on the parameters of a licensee's operations. (6)
- Consistent with the above, the Commission should ensure that cellular operators, employing their assigned spectrum, are able to provide paging, ESMR-like services and PCS offerings. (7)
- Affording CMRS licensees flexibility in designing, offering, and operating their services will foster the public interest by: (1) letting CMRS operators devise and deliver service packages responsive to needs of customers; (2) enabling the implementation of new technologies as they develop; and (3) generating competition not anticipated by the Commission. (7)
- Also urges the Commission to streamline the rules applicable to all CMRS providers. (8)

Spectrum aggregation caps:

- Opposes the imposition of a general spectrum cap because it is unnecessary and will unduly restrain the legitimate activities of licensees. Service-specific caps -- like in PCS -- are preferable and will address any valid concerns. (18)

- Both the amount of available CMRS spectrum and the construction and operation requirements contained in specific CMRS service rules help ensure that no entity may hoard spectrum to disadvantage competitors. (18-19)
- A general CMRS spectrum cap also may unfairly limit the participation of some entities in new technologies as spectrum and technological improvements become available, depriving the public of the benefits brought by existing operators to new services. (19)
- The PCS rules already significantly limit a licensee's ability to aggregate CMRS spectrum. (19-20)
- Imposition of a 40 MHz cap on the total quantity of CMRS spectrum that may be acquired is unreasonable and vastly too restrictive as applied to all of the services classified as CMRS. (21)
- Issues about geographic overlap seriously complicate any fair application of a blanket spectrum cap because different CMRS operations have a number of different service areas that overlap in numerous ways. (21-22)
- A 5 percent across-the-board attribution rule is too inclusive, unnecessary as a competitive matter, and conflicts with the PCS rules. (22)

Technical rule change proposals:

- **Co-channel interference protection criteria:** Agrees with the Commission's tentative finding that any revision of the existing co-channel interference rules will be costly and burdensome to licensees, and urges the Commission to retain its existing requirements. (10)
- **Antenna height and power limits:**
 - Recognizes that different antenna height and power limits have historically been used in the cellular and SMR contexts, and that, consequently, reconciliation of the rules applicable to cellular and SMR providers may not be technically feasible. (11)
 - Nevertheless, to the extent that the higher limits in Part 90 give wide area SMR providers a competitive edge, the Part 22 limits should apply to both wide-area SMR and cellular operators. (11-12)